

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ADVOCARE INTERNATIONAL, L.P., a
Texas limited partnership,

Plaintiff,

v.

RICHARD PAUL SCHECKENBACH, et al.,

Defendants.

Case No. C08-5332 RBL

ORDER GRANTING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT [Dkt. #311]

THIS MATTER comes before the Court on Plaintiff's Motion for Partial Summary Judgment [Dkt. #311]. Plaintiff AdvoCare seeks summary judgment dismissal of Defendants Tai Brown, Kelli Bottolfson Brown, and HerbAsia's "frivolous lawsuit" counterclaim. In April, 2009, the court denied Plaintiff's motion to dismiss this claim under Rule 12 (b)(6) [Dkt. # 103]. As the Plaintiff correctly points out, the parties have litigated the merits of the various claims and defenses significantly since that time. While the parties devote the bulk of their submittals discussing the law of the case doctrine, the Plaintiff's contention that the litigation which has occurred since that time alone demonstrates that Plaintiff's claims against these Defendants are not frivolous, whether or not they ultimately prevail. On the record now before this Court, the Defendants' "frivolous lawsuit" counterclaim is legally insufficient as a matter of law. The Plaintiff's Motion for Partial Summary Judgment is GRANTED and the Defendants' Counterclaim is DISMISSED WITH PREJUDICE. The request for sanctions is DENIED.

1 IT IS SO ORDERED.

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3 DATED this 30th day of August, 2010.

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5 RONALD B. LEIGHTON
6 UNITED STATES DISTRICT JUDGE
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